

INDIAN CONSTITUTION AND GENDER EQUALITY: AN OVERVIEW

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Abstract

Gender equality is the precondition for meeting the challenges of promoting sustainable development in all areas. Gender equality means equal access to equal opportunities for women, men and transgender persons in the field of education, health, employment, decision-making process, leadership positions, etc. So, it is deemed essential in all areas of development. Gender equality signifies that the needs and interests of men, and women and transgender persons should be taken into consideration so that everyone feels free to make their own decisions without regard to social conventions and gender roles. But in our society, it has been observed that the disparity exists which affects the development of a nation. It is women and transgender who suffer the most from this discrepancy. Transgender persons are denied their basic human rights. This is a big hurdle in the path of sustainable development which we dream of. In India, it seems that achieving the goal of gender equality is the unfinished business due to patriarchal societal standards. We see that the gender gap remains a key issue in India despite being the 5th largest economy in the world. There was no discrimination between the rights of men and women in the Vedic period. Now it is the need of the hour to bring back that Vedic period. The war in Ukraine, the covid 19 pandemic, the current food and energy price hike and long-standing factors such as climate change have widened already large gender gaps. The World Economics Forum expects that it will now take more than 130 years to close gender gaps worldwide. To end gender disparity, it is necessary that we start teaching our children about it from an early age. The government should take action to accomplish this goal. The society should make effort to change the societal and cultural norms so that the inferior position of women can be improved.

This paper examines and analyses the gender equality issues and challenges in India. This paper also tries to know about the

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Keywords

Gender Equality, transgender, patriarchal, Human rights, women's rights.

Objectives

- To view the constitutional provision stop revert gender in equality and discrimination.
- To analyze the impact of gender in equality on the economic development of the nation.
- To analyze the facts related to the issues and relevant provisions of Indian constitution.

Introduction

Gender equality is the gist of human rights legal philosophy. Equality can be defined as the situation where every individual has the same rights and equal access to opportunity to grow and prosper or we can say that everyone has an equal chance to maximize their potential but there is a lot of discrimination. Cultural differences, geographical differences, the colour of the individual, social status and even gender can be the basis of the discrimination. The most prevalent is gender inequality and is prevalent across the globe. There was no discrimination between males and females in Vedic Period in our Indian society. But in the medieval age, the status of women started deteriorating. United Nations 2030 agenda for development has included it as it is very important to all aspects of development. Due to gender inequality people are being deprived of their basic rights. Most of the countries are far from their economic development due to this discrimination. So, it is the need of the hour to focus on gender equality and human rights. How can an economy achieve its full potential if it ignores and fails to invest in half of its population? We need gender equality urgently. Gender norms are typically far worse in developing countries like India. India is at 189th position out of 201 countries in terms of female to male ratio and among Asian countries India is at 43rd position out of 51.

This social stigma has been creeping into the underbelly of all societies for many centuries. A nation can only prosper when all its citizens have equal rights and equal access to equal opportunities. Indian government is taking multiple initiatives to achieve the goal of gender equality. They have initiated a social campaign called “Beti Bachao, Beti Padhao” yojana to encourage the education of girl children. Besides this, the government has run multiple other schemes such as the women’s helpline scheme, UJJWALA, the national mission for the empowerment of women, etc. to create awareness among the people.

The right to equality is one of the six fundamental rights in the Indian constitution which ensures that no person should live a deprived life because of their caste, religion, race, gender, or color. Indian laws state that our human race is divided into 3 genders: - male, and female and trans.

If we talk about the situation of women, they were considered as a low, weak section of society who are supposed to do only household work.

But we have seen women proved their talent in every aspect of life when given the same opportunity as society offers to men. Science, technology, finance, medical everywhere they are writing history.

It is not only the women who are suffering. Nevertheless, other than women, there is one more gender who has been going through suffering for a long time. Who was even not recognized as a third gender for a long time. The main issues faced by the transgender people in our Indian society are discrimination and social exclusion, lack of proper educational facilities, unemployment and lack of livelihood options, homelessness and insensitive treatment by society. They were not treated as a part of society until 2014. In 2014, the Government of India recognized them as the third gender. But still, they are not able to live a simple life like the other two genders. Some times gender equality is needed by men as well. We have gone through many cases where they have been accused of false deeds.

Constitution and Legal Provisions for Gender Equality

The principle of gender equality is given in the Indian constitution. The constitution not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women. The following provisions are given in the Indian constitution:

Article 14 of the Indian constitution states about equal status or equality before the law. The state shall not deny to any person equality before the law or equal protection to the laws within the territory of India.

Article 15 the state shall not discriminate against any citizen on the ground of religion, race, sex, place of birth or any of them.

Article 16(1) in article 16, a provision has been made to provide opportunity in the matter of public employment. All citizens shall have the same opportunity in matters relating to employment or appointment to any post under the state.

Articles 16(2) no citizen shall be ineligible or debarred from holding any post under the state on grounds of religion, race, caste, gender, place of birth and residence.

Article 17 untouchability is abolished and its practice in any form is

prohibited. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law.

Article 18 has made the right of equality more effective by providing for the abolition of titles. Untouchability was prohibited in article 17, but a separate provision was made for another form of discrimination which was "titles."

Article 39(A) citizens, men and women equally have the right to an adequate means of livelihood.

Article 39(D) there is equal pay for equal work for both men and women.

Article 42 the state shall make provision for securing just and fair conditions of work and for maternity relief.

Legal Provisions for Women

In India there is no paucity of laws for women. Indian laws protect women very well. The constitution empowers the state to develop measures to protect the exclusive rights of women. The state has enacted various legislative measures like laws, development policies, programs to ensure equal rights, to counter social discrimination and various forms of violence. These legislative measures are broadly classified in following categories:

- **Under the Indian Penal Code (IPC):**
 - > Rape (376 IPC)
 - > Kidnapping & Abduction for different purposes (363-373 IPC)
 - > Homicide for Dowry, Dowry Deaths or their Attempts (302/304-9 IPC)
 - > Torture, both Mental and Physical (498-A IPC)
 - > Molestation (354 IPC)
 - > Sexual Harassment, Word, Gesture, or Act insulting the modesty of a woman (509 IPC)
 - > Marriage ceremony was fraudulently gone through without lawful marriage (496 IPC)
 - > Marrying another woman during the lifetime of spouse (494 IPC)
 - > Procurement of a minor girl (366A IPC)
 - > Cohabitation caused by a man deceitfully inducing a belief of lawful marriage (493 IPC)
 - > Adultery (497 IPC)
 - > Causing miscarriage or miscarriage without the woman's consent (312, 313 IPC)
 - > Death caused by act done with intent to cause miscarriage (314 IPC)

- **Under the Special Laws:**

The provisions of laws affecting women have been amended from time to time so that these laws can keep pace with the emerging requirements. Following are some acts which provide provisions to protect women and their interests: -

- > Immoral Traffic (Prevention) Act, 1956.
- > Dowry Prohibition Act, 1961.
- > Indecent Representation of Women (Prohibition) Act, '1986.
- > The Protection of Women from Domestic Violence Act, 2005.
- > Information Technology Act, 2000
- > The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

- **Special initiatives for women by the Government of India**

- 1) National Commission for women
- 2) The national plan of action for the girl child.
- 3) National policy for the empowerment of women 2001.

National Commission for Women:

The Commission was set up on 31st January 1992. It recommends there medial legislative measures, helps in redressal of grievances and advises the government on all policy matters affecting women.

The National Plan for Action for the Girl Child (1991-2000):

It was formulated in 1992. It addresses the various issues relating to the girl's childlike health, nutrition, education, exploitation, the practice of amniocentesis for sex determination.

National Policy for Empowerment of Women 2001:

The department of women and child development in the ministry of human resource development has prepared this policy. It aims at strengthening the legal system to eliminate all forms of discrimination against women.

Others Schemes run by Government for Women Empowerment

- Beti Bachao, Beti Padhao scheme
- Working women hostels scheme
- One stop centers scheme
- Women helpline scheme
- Mahila E-hatt
- Mahila police volunteers
- SWADHAR Greh

- **MahilaShaktiKendras**

In India, it is seen that women are not much aware of their rights. Above said all the legal and constitutional provisions should be known by every woman because a person who knows law, doesn't need any weapon. Knowledge of laws makes him/her the most powerful person. You can fight against any in justice if you are aware of your rights.

Legal Provisions in Indian Constitution for Transgender

The transgender person (protection of rights) act 2019 and the transgender person (protection of rights) rules 2020.

These laws have been formulated to protect the rights of transgender persons in India and provide them with their welfare. Now they have the same status as that of any male and female person. The Supreme Court in 2014 officially declared transgender as the third gender in India via the landmark judgment NALSA V. Union of India & ors. (2014). The court held that all the transgender persons are entitled to fundamental rights under articles 14 to article 21. In 2020, the parliament legally recognized 'transgenders' as an official gender in India.

There is number of laws for the protection of women in India but no such laws for the protection of men. Many times, men are abused or falsely persecuted by women. Women are making abuse of laws which are created for their protection to take revenge. There is no proper machinery to look into such matters and provides justice to men by exercising proper laws and acts for them. Section 498 A of I.P.C. is being misused by women. Women are filing spurious claims against their husbands in cases of domestic violence. But nowadays, it is observed that the women are also punished by the court for misusing the laws. it is a good start for the protection of interests of men.

Impact of Gender Equality on Economic Development

Gender equality is a human right. Everyone benefits from gender equality. Societies that value women and men as equal are safer and healthier. It is a must for economic prosperity. Gender equality goes hand in hand with macroeconomic and financial stability can stimulate economic growth, boost private and public sector performance and reduce income inequality. Gender equality has positive macroeconomic benefits.

- Gender inequality in education negatively affects economic growth. This inequality has significant economic costs. It limits the economic growth of India.
- Gender equality makes our society safer and healthy and unequal societies

are unstable as they have higher rates of anti-social behavior and violence. The people of countries with gender equality are healthier and have better well-being.

- GDP would increase if the gender employment gap is closed or reduced. The research by the MC Kinsey Global Institute states that India could increase its National GDP by \$ 770 billion by 2025 by promoting gender equality. It will help in economic growth and development.
- There is a great loss of human capital wealth due to gender inequality. The India would gain much by putting gender equality higher on the agenda. This is very important for inclusive growth. It would lead to a large increase in the number of jobs. It would also address the productivity challenges and foster the economic growth.
- Gender inequality is a major factor driving population growth. When women will have the power to make decisions about their bodies and lives, they will prefer to have fewer children. If we want to stabilize the population at a level, where everyone has the resources they need to live healthy, prosperous lives, it is essential to reduce gender inequality.

Suggestions

All the genders should be treated with dignity, respect and fairness. To achieve this socio-economic goal, the government should give focus on progressive targets for change in the following areas: -

- leadership empowerment and cultural change
- safety and freedom from gender-based violence
- economic security
- health and well being

Well design macroeconomic structural and financial policies can support efficient and inclusive outcomes and bring gender parity. It is also necessary that we start teaching our children about it from an early age to achieve the goal of gender equality.

Conclusion

In India, there is a long way to go, although the situations are changing to some extent. It seems very difficult that gender equality can be fully achieved by the 2030 target. To achieve gender equality, it is necessary for the government to take action to stop the abuse of women by individuals, and organizations. The society should also make efforts to change the patriarchal societal standards. The government should focus on providing the right kind of information about laws and awareness

to strengthen the gender equality because most of the people are not fully aware of their rights. For gender parity proper implementation of law must. As gender equality and economic development are interrelated concepts. Without achieving gender equality, a nation cannot prosper. Society must also be sensitized and awakened about the adverse impacts of regressive stereotyping and should demonstrate a responsible behavior. Gender Equality is necessary for a nation. It is both ethical and profitable to the economy. A peaceful society can be made by promoting gender equality.

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